



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/168766

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 15, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 14, 2015, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

|

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Dunn County Department of Human Services  
808 Main Street  
PO Box 470  
Menomonie, WI 54751

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.
2. The county agency notified the petitioner on September 18, 2015, that her FoodShare allotment would fall from \$380 to \$199 per month as of October 1, 2015.

3. The petitioner lives with her three children.
4. The petitioner does not have any housing expenses.
5. The petitioner receives \$608 from the W-2 program, \$17 from social security, and \$435.29 in child support each month. She has no earned income.
6. The petitioner has not been found to be disabled. She is under 60 years old.

### **DISCUSSION**

The county agency seeks to reduce the petitioner's FoodShare allotment from \$380 to \$199 because it contends that her income has increased. She seeks additional FoodShare because she requires a special diet that costs more than a regular one. But the size of a FoodShare allotment depends solely upon household size and net income. Net income is determined after subtracting from gross income those deductions—and only those deductions—found in 7 CFR § 273.9(d). There is a deduction for unreimbursed medical expenses exceeding \$35 per month, but this is available only to those who are over 60 or have been found to be disabled, neither of which applies to the petitioner. 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2; *FoodShare Wisconsin Handbook*, § 4.6.4.1. The petitioner is not entitled to the deductions for earned income and shelter costs because she is not working and does not pay rent. The only deduction she is entitled to is the \$168 standard deduction allowed for households with four members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1).

The notice sent to the petitioner informing her that her FoodShare would decline is confusing in regard to her gross income. It lists her sources of income as \$608 from the W-2 program, \$59.99 in child support for one of her children, \$187.65 for child support for each of her two other children, and \$17 for social security one of her children receives. This adds up to \$1,060.29. But the notice also indicates that her gross income is \$1,668.29. When I asked about her income, I asked about the individual sources. She acknowledged that they are correct, but neither party pointed to any other income. Nor is there anything in the notice supporting that her income exceeds \$1,060.29. Therefore, I find that her gross income is \$1,060.29. Subtracting the \$168 standard credit leaves her with \$892.29 in net income. The FoodShare allotment for a four-person household with this net income is \$381. *FoodShare Wisconsin Handbook*, § 8.1.2. I will order the agency to increase her allotment to this amount.

### **CONCLUSIONS OF LAW**

The petitioner is entitled to \$381 in FoodShare each month. .

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it increase the petitioner's FoodShare allotment to \$381 per month retroactive to October 1, 2015.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 14th day of October, 2015

---

\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 14, 2015.

Dunn County Department of Human Services  
Division of Health Care Access and Accountability